IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN

&

THE HONOURABLE MR.JUSTICE MURALEE KRISHNA S.

THURSDAY, THE 10TH DAY OF APRIL 2025 / 20TH CHAITHRA, 1947

CONT.CAS.(CRL.) NO. 6 OF 2023

PETITIONERS:

SUO MOTU
HIGH COURT OF KERALA, PIN - 682031

RESPONDENTS:

1 ADV. SOJAN PAVANIOS
MEMBER, BAR ASSOCIATION, KOTTAYAM., PIN - 686002

2 ADV. BENNY KURIAN
MEMBER, BAR ASSOCIATION, KOTTAYAM., PIN - 686002

3 ADV. K.A. PRASAD
PRESIDENT, BAR ASSOCIATION, KOTTAYAM., PIN - 686002

4 ADV. TOMY K. JAMES
SECRETARY, BAR ASSOCIATION, KOTTAYAM., PIN - 686002

5 ADV. M.P. THANKOM
VICE PRESIDENT,BAR ASSOCIATION, KOTTAYAM., PIN - 686002

6 ADV. ANU STEPHEN
JOINT SECRETARY, BAR ASSOCIATION, KOTTAYAM., PIN - 686002

7 ADV. JOSHY CHEEPPUNKAL
MEMBER, BAR ASSOCIATION, KOTTAYAM., PIN - 686002

8 ADV. MANU J. VARAPPALLY
MEMBER, BAR ASSOCIATION, KOTTAYAM., PIN - 686002

9 ADV. ABHISHEK R
MEMBER, BAR ASSOCIATION, KOTTAYAM., PIN - 686002

10 ADV. BAIJU THOMAS
MEMBER, BAR ASSOCIATION, KOTTAYAM., PIN - 686002

11 ADV. N. GOPALAKRISHNAN
MEMBER, BAR ASSOCIATION, KOTTAYAM., PIN - 686002

12 ADV. JAYAPRAKASH V
MEMBER, BAR ASSOCIATION, KOTTAYAM., PIN - 686002

13 ADV. MANU TOM THOMAS
MEMBER, BAR ASSOCIATION, KOTTAYAM., PIN - 686002

14 ADV. MUHAMMAD SIRAJ
MEMBER, BAR ASSOCIATION, KOTTAYAM., PIN - 686002

15 ADV. RICHU THARIAN REJI
MEMBER, BAR ASSOCIATION, KOTTAYAM., PIN - 686002

16 ADV. TOM K JOS
MEMBER, BAR ASSOCIATION, KOTTAYAM., PIN - 686002

17 ADV. THOMAS JOSEPH
MEMBER, BAR ASSOCIATION, KOTTAYAM., PIN - 686002

18 ADV. ALEX P. RAJU
MEMBER, BAR ASSOCIATION, KOTTAYAM., PIN - 686002

19 ADV. RAHUL SUKUMARAN
MEMBER, BAR ASSOCIATION, KOTTAYAM., PIN - 686002

20 ADV. VISHNU MANI
MEMBER, BAR ASSOCIATION, KOTTAYAM., PIN - 686002

21 ADV. JAMES K. PETER
MEMBER, BAR ASSOCIATION, KOTTAYAM., PIN - 686002

22 ADV. AJAYAKUMAR K. G.
MEMBER, BAR ASSOCIATION, KOTTAYAM., PIN - 686002

23 ADV. AJITHAN NAMPOOTHIRI C. S.
MEMBER, BAR ASSOCIATION, KOTTAYAM., PIN - 686002

24 ADV. AJITHKUMAR S.
MEMBER, BAR ASSOCIATION, KOTTAYAM. ENROLL NO. K.925/2012,
PIN - 686002

25 ADV. ANUPA DAS
MEMBER, BAR ASSOCIATION, KOTTAYAM., PIN - 686002

26 ADV. BINDHU ABRAHAM
MEMBER, BAR ASSOCIATION, KOTTAYAM., PIN - 686002

27 ADV. ANAGHA J
MEMBER, BAR ASSOCIATION, KOTTAYAM., PIN - 686002

28 ADV. AMALU ELIZEBETH
MEMBER, BAR ASSOCIATION, KOTTAYAM., PIN - 686002

29 ADV. GEORGE K. M.
MEMBER, BAR ASSOCIATION, KOTTAYAM., PIN - 686002

BY ADVS.
ADV. SOJAN PAVANIOS(Party-In-Person)
AJITH VISWANATHAN
ANANTHAKRISHNAN A. KARTHA
P.M.RAFIQ
KAROL MATHEWS SEBASTIAN ALENCHERRY
TOM JOSE (PADINJAREKARA)
T.KRISHNANUNNI (SR.)(K/280/1973)
BALRAM S.A.(K/001658/2018)
ANIL D.KARTHA(K/000029/1988)
P.VISWANATHAN (SR.)(K/000283/1986)
ENOCH DAVID SIMON JOEL(K/925/2009)
S.SREEDEV(K/1219/2006)
RONY JOSE(K/705/2012)
LEO LUKOSE(K/001131/2016)
DERICK MATHAI SAJI(K/1901/2021)
KARAN SCARIA ABRAHAM(K/003189/2023)
JOSEPH KODIANTHARA (SR.)(J-381)
K.T.SEBASTIAN(K/1079/2001)
M.REVIKRISHNAN
AJEESH K.SASI
SRUTHY N. BHAT
RAHUL SUNIL
SRUTHY K.K
NIKITA J. MENDEZ
P.VIJAYA BHANU (SR.)
T.SETHUMADHAVAN (SR.)(S-310)
MATHEW DEVASSI

THIS CONTEMPT OF CASE (CRIMINAL) WAS FINALLY HEARD ON 11.03.2025, THE COURT ON 10.04.2025 PASSED THE FOLLOWING:

JUDGMENT

Muralee Krishna, J.

This Contempt Case (Crl.) is initiated suo motu by this Court, invoking the provisions under Section 15(2) of the Contempt of Courts Act, 1971, and Article 215 of the Constitution of India, by treating the information in Annexure B report dated 23.11.2023 of the Chief Judicial Magistrate, Kottayam, as an 'information' under Rule 7 of the Contempt of Courts (High Court of Kerala) Rules, 1971, in respect of an unruly incident that unfolded in the Court of the Chief Judicial Magistrate, Kottayam and its immediate precincts on 23.11.2023. Along with Annexure B report, a list mentioning the names of lawyers, who were involved in the said incident, was also furnished. After the preliminary hearing, on being satisfied that a prima facie case of criminal contempt has been made out, this Court issued notice to the respondents. The order of this Court dated 01.12.2023 reads thus:

> "This Contempt Case (Crl.) is initiated suo motu by the High Court, invoking the provisions under Section 15(2) of the Contempt of Courts Act, 1971, and Article 215 of the Constitution of India, by treating the information in Annexure B report dated 23.11.2023 of the Chief Judicial

Magistrate, Kottayam, as an 'information' under Rule 7 of the Contempt of Courts (High Court of Kerala) Rules, 1971, regarding the incident that happened on 23.11.2023 in the court of the Chief Judicial Magistrate, Kottayam. Vide Annexure A report dated 23.11.2023, the District Judge, Kottayam has also reported the matter to the High Court. On 24.11.2023, when the matter was placed before the Honourable the Chief Justice, having gone through the reports and the relevant records relating to the incident that has taken place in the court premises/room, the Honourable the Chief Justice considered it expedient to take appropriate action under the Contempt of Courts Act, 1971, and the Registry was directed to place the matter for preliminary hearing under the provisions of the said Act and the Contempt of Courts (High Court of Kerala) Rules, 1971.

2. On 28.11.2023, when this matter came up for consideration, Registry has reported the service of a copy of this contempt case on the learned Advocate General, as provided under Rule 8A of the Contempt of Courts (High Court of Kerala) Rules, 1971. Registry was directed to show the name of the learned Advocate General in the cause list and the matter was ordered to be listed on 30.11.2023 at 2.00 p.m.

3. On 30.11.2023, when the matter was taken up for consideration, the learned Director General of Prosecution appeared on behalf of the learned Advocate General. We have viewed in open court the video of the incident that happened on 23.11.2023, which forms part of this contempt case as Annexure E (pen drive).

4. Today, when this contempt case is taken up for consideration, the learned Advocate General, who appeared on service of a copy of this Contempt Case, as provided under Rule 8A of the Contempt of Courts (High Court of Kerala) Rules, 1971, would point out the decision of the Apex Court in **S.K. Sarkar Member, Board of Revenue, U.P., Lucknow v. Vinay Chandra Misra [AIR 1981 SC 723]** and also the decision of a Division Bench of this Court in **Bar Council of Kerala v. Saju [2001 (1) KLT 341]**. We viewed again in open court the video of the incident that happened on 23.11.2023, which forms part of this contempt case as Annexure E (pen drive).

5. As already noticed hereinbefore, this Contempt Case (Crl.) is initiated suo motu, invoking the provisions under Section 15(2) of the Contempt of Courts Act, 1971 and Article 215 of the Constitution of India, by treating the information in Annexure B report dated 23.11.2023 of the Chief Judicial Magistrate, Kottayam as an 'information' under Rule 7 of the Contempt of Courts (High Court of Kerala) Rules, 1971. Therefore, the initiation of this contempt proceedings suo motu, based on the decision of the Honourable the Chief Justice in the administrative side, is not by treating Annexure B report dated 23.11.2023 of the Chief Judicial Magistrate, Kottayam as a reference under Section 15(2) of the Contempt of Courts Act, 1971.

6. In **S.K. Sarkar [AIR 1981 SC 723]** the Apex Court held that if the High Court is prima facie satisfied that the information received by it regarding the commission of contempt of a subordinate court is not frivolous, and the

contempt alleged is not merely technical or trivial, it may, in its discretion, act suo motu and commence the proceedings against the contemner. However, this mode of taking suo motu cognizance of contempt of a subordinate court, should be resorted to sparingly, where the contempt concerned is of a grave and serious nature.

7. The decision of the Division Bench in **Bar Council of Kerala [2001 (1) KLT 341]** is in the context of the procedure to be followed before making a reference by a subordinate court under Section 15(2) of the Contempt of Courts Act, 1971, read with Rule 8 of the Contempt of Courts (High Court of Kerala) Rules, 1971.

8. In the instant case, as borne out from Annexure B report dated 23.11.2023 of the Chief Judicial Magistrate and the video, which forms part of this contempt case as Annexure E (pen drive), the incident that happened in the court hall of the Chief Judicial Magistrate, Kottayam and also in the veranda on the side of the court hall, by shouting slogans and hurling abusive and derogatory words at the Judicial Officer, is of grave and serious nature. Having considered the materials on record, we are satisfied that a prima facie case has been made out under clause (c) of Section 2 of the Contempt of Courts Act, 1971.

9. In the above circumstances, issue notice in Form No.1 to the respondents by speed post to appear in person before this Court on 15.12.2023 at 2.00 p.m.

List on 15.12.2023 at 2.00 p.m.”

2. On receipt of the notice, the respondents, except the 1st

respondent, entered appearance through counsel and the 1st respondent appeared in person. On 15.12.2023, this Court dispensed with the personal presence of the respondents who appeared through counsel.

3. On 18.03.2024, when the matter was taken up, the learned Senior Counsel/counsel for respondents 2 to 29 submitted that the said respondents had filed affidavits tendering unconditional apology. The 1st respondent who appeared in person, submitted that he filed an affidavit tendering apology. On that date Adv. Paul Kuriakose. K was designated under Rule 15 of the Contempt of Courts (High Court of Kerala) Rules, 1971 (‘the Rules’ in short) to appear and conduct the proceedings against the respondents. Registry was directed to give a complete set of Contempt Case to the learned counsel.

4. On 10.07.2024, when the matter was taken up, all the respondents who appeared through counsel submitted that they had tendered unconditional apologies and prayed for orders to discharge them from the proceedings. On a perusal of the unconditional apologies submitted by the said respondents, it was found that the same were not in accordance with Rule 14(a) of the

Rules. On 18.07.2024, learned counsel appearing for the said respondents submitted that their clients have submitted fresh apologies in accordance with Rule 14(a) of the Rules.

5. On 26.07.2024 another Division Bench of this Court accepted the unconditional apology tendered by respondents 2 to 29 and purge the contempt committed by them on accepting their undertaking that they shall offer their services to the District Legal Services Authority, Kottayam for free legal aid to the poor and needy for a period of six months from the said date. Paragraph 4 of that order reads thus:

> "4. We have perused the apologies submitted by respondents 2 to 29, and we are satisfied that the apologies submitted by the respondents conform to Rule 14(a) of the Rules. But, having regard to the fact that use of improper language towards Judges is frequent, this court is of the view that the respondents ought not be allowed to get away by merely offering sorry by way of an apology as the easiest way. As noted, the respondents have gone to the extent of shouting slogans and hurling abusive as also derogatory remarks at the Chief Judicial Magistrate inside and outside the court hall, apart from interrupting the ongoing court proceedings. The incident, therefore, is one which interfered with the administration of justice and tended to lower the authority of the court. In the

circumstances, this court may not be justified in discharging the respondents, solely based on the unconditional apologies tendered by them. Rule 14(a) of the Rules confers power on this court to pass such orders as it deems fit, if the respondent tenders an unconditional apology, after admitting that he/she has committed contempt. When the learned counsel for respondents 2 to 29 were put to notice by this court as to whether they are willing to render free legal aid to the poor and needy for purging the contempt committed by them, all of them unanimously agreed that they have no objection in doing so, provided the same will not affect their right to practice, in any manner. In the circumstances, in the peculiar facts of this case, we deem it appropriate to accept the unconditional apologies tendered by respondents 2 to 29 and purge the contempt committed by them based on the undertaking that they shall offer their services to the District Legal Services Authority, Kottayam for free legal aid to the poor and needy, for a period of six months from today. Ordered accordingly. The Secretary, District Legal Services Authority, Kottayam shall assign legal aid work to respondents 2 to 29 during this period, keep a record of the matters entrusted to them, observe the result/progress made in those matters and submit a report before this court, on the expiry of the period of six months. It is, however, made clear that this order will not preclude in any manner, the right of respondents 2 to 29 to continue practising as lawyers or to pursue any career on the strength of their qualification and experience at the Bar."

6. The 1st respondent who appeared in person, however, filed an affidavit dated 22.02.2024 contending that he did not commit any act of contempt. In the affidavit, it is averred that while the Chief Judicial Magistrate was addressing the members of the Bar Association in a peaceful and pleasant way, he entered the court hall, attended the words of the Presiding Officer and positively responded to the question asked by the Presiding Officer. Thus, he maintained that he had only answered the question put to him by the Presiding Officer and did not say any words scandalising or obstructing the proceedings of the court. He also contended that he did not participate in the group of lawyers, who shouted slogans.

7. In the light of the said stand taken by the 1st respondent, this Court viewed Annexure E Compact Disc (CD) again. Noting that the video recording No.2, which is numbered 112501, from 1.05 minutes to 1.17 minutes contains the statements of the 1st respondent by standing in front of the dais of the Chief Judicial Magistrate and he did not explain the said statement/speech made by him in his affidavit, except that he positively responded to the queries asked by the Presiding Officer, this court directed the 1st

respondent to file an additional affidavit within a period of three weeks with specific reference to the aforesaid video recording, as contemplated in sub-section (5) of Section 17 of the Contempt of Courts Act.

8. Pursuance to the above direction, the 1st respondent filed an additional affidavit dated 15.11.2024. Paragraphs 3 to 5 of that affidavit read thus :

> "3. It is most respectfully submitted that an extra ordinary general body meeting of the Kottayam Bar Association was convened on 22.11.2023 for discussing the continuous bitter experiences faced especially by the budding lawyers from the respected Presiding Officer of the Honourable Chief Judicial Magistrate court, Kottayam during the Court proceedings. On convening the said General Body meeting, the members narrated their painful and bitter experiences from the respected officer, during the court proceedings.
>
> 4. I most respectfully submitted before the Hon'ble Chief Judicial Magistrate Court about the complaints of the commissioner advocates which was discussed in detail on 22.11.2023. "കമ്മീഷണർ അഡ്വക്കേറ്റ്സ്ന്റെ ഇടയിൽ വ്യാപകമായ പരാതി അങ്ങയെക്കുറിച്ച് ഉണ്ട് . അങ്ങ് അത് തിരുത്തണം. തിരുത്തി നടപടി സ്വീകരിക്കണം". I conveyed the matter to the respected officer and the respected officer responded positively and started to reply very pleasantly after my submission. My earnest attempt in the court hall

was to prevent any sort of interference or obstruction to the court proceedings. I never shouted any slogans inside or outside the Court to scandalize or to obstruct the Hon'ble Court proceedings. I consider and believe that all the Judicial Court Hall as a very Sacred Cathedral where Justice is delivered to the citizens. I can't even think about in obstructing or even to use even a single word which leads to demean the Supremacy of the Honourable Judicial System. I was only an onlooker of the communications of the respected Presiding Officer along with other members of the Bar Association. As a responsible member of the bar and as a former secretary, I tried my level best to control all the members who were inside the court hall and requested the members to be patient and to pay attention to the reply of the respected officer.

5. I most humbly submit before Your Lordships kind attention to the existing fact that the majority number of Lawyers especially the Junior Lawyers, is very much struggling financially, as well as mentally, to be the part of this most noble profession. So the Junior Advocates are closely attached to the Honourable Chief Judicial Magistrate Court for being appointed as Commissioner Advocates in SARFAESl proceedings. In case of bitter experience at the very early stage, those junior lawyers may even drop the legal practice and leave this, the very noble profession".

9. Heard the 1st respondent who appeared in person and Adv. Paul Kuriakose K, who is designated under Rule 15 of the Rules.

10. The 1st respondent submitted that it is true that some

unpleasant incidents occurred in the court hall as well as in the veranda of the Court of the Chief Judicial Magistrate, Kottayam on 23.11.2023. Some Advocates have uttered slogans inside and outside the court hall and also had some heated conversations with the learned Chief Judicial Magistrate. But, the 1st respondent tried to pacify the situation and tried to control the advocates who shouted and uttered slogans inside and outside the court hall. When he reached the court hall he witnessed some conversations going on between the learned Chief Judicial Magistrate and some of the members of the Bar. He, being a former office bearer of the Bar Association, had only informed the learned Magistrate about the complaints of Junior Advocates pertaining to the appointment of Advocate Commissioners, with good intention to communicate the grievance of the junior advocates, as a response to the query made by the learned Chief Judicial Magistrate as to what was the grievance of the advocates pertaining to her. He had no intention to disrupt the court proceedings or show disrespect to the court.

11. As per Section 2(a) of the Contempt of Courts Act, 1971, Contempt of Court means civil contempt or criminal contempt. Section 2(b) defines Civil Contempt and Section 2(c) defines

Criminal Contempt. As per Section 2(b) Civil Contempt means wilful disobedience to any judgment, decree, direction, order, writ, or other process of a court, or wilful breach of an undertaking given to a court. We are concerned about the criminal contempt alleged against the 1st respondent. Section 2(c) defines Criminal Contempt thus:

> "(c) "criminal contempt" means the publication (whether by words, spoken or written, or by signs, or by visible representation, or otherwise) of any matter or the doing of any other act whatsoever which—
> (i) scandalises or tends to scandalise, or lowers or tends to lower the authority of, any court; or
> (ii) prejudices, or interferes or tends to interfere with, the due course of any judicial proceeding; or
> (iii) interferes or tends to interfere with, or obstructs or tends to obstruct, the administration of justice in any other manner"

12. In the light of the submissions made by the 1st respondent, we again viewed Annexure E Compact Disc, which contains 3 videographs of the incidents that happened inside and outside the court of the Chief Judicial Magistrate, Kottayam on 23.11.2023. The allegation against the 1st respondent is only pertaining to the incident that happened inside the court hall. The

video recording No.2 numbered 112501 contains the incidents inside the court hall. On a careful perusal of this video recording, we notice that the 1st respondent is seen standing in front of the dais of the Chief Judicial Magistrate from 00.01.05 minutes to 00.01.20 minutes along with several other advocates. He spoke to the Chief Judicial Magistrate from 00.01.10 minutes to 00.01.20 minutes alone. It could be seen from the video that the 1st respondent told the Chief Judicial Magistrate that "കമ്മീഷണർ അഡ്വക്കേറ്റ്സ്ന്റെ ഇടയിൽ വ്യാപകമായ പരാതി അങ്ങയെക്കുറിച്ച് ഉണ്ട്. അങ്ങ് അത് തിരുത്തണം. തിരുത്തി നടപടി സ്വീകരിക്കണം". Thereafter the Chief Judicial Magistrate started speaking to the advocates from 00.01.20 minutes till 00.02.22 minutes. At 00.02.22 minutes, some of the advocates started shouting and uttering slogans. On a careful perusal of the videograph from 00.01.20 to 00.02.22 minutes we notice that the 1st respondent was pleasantly paying attention to the words of the Chief Judicial Magistrate and was also trying to pacify some of the advocates who were shouting, while the Chief Judicial Magistrate was explaining her part.

13. As noticed above, the 1st respondent did not utter any slogan or shout inside or outside the court hall. It is true that he

had spoken three sentences in Malayalam to the learned Chief Judicial Magistrate from the court hall, which has no connection with any judicial proceedings. But the 1st respondent explained the context in which he spoke to the learned Chief Judicial Magistrate those words. According to him, being a responsible member of the Bar, it was as a response to the query of the learned Chief Judicial Magistrate as to what was the grievance of the Advocates pertaining to her, he spoke to the learned Chief Judicial Magistrate with good intention of informing her about the complaints of junior Advocates pertaining to the appointment of the Advocate Commissioners.

14. Having perused the videographs, taking note of the explanation offered by the 1st respondent in his affidavit and additional affidavit, we are of the view that the words spoken by the 1st respondent to the learned Chief Judicial Magistrate as seen in the Videograph from 00.01.10 minutes to 00.01.20 minutes were not with an intention to scandalise or obstruct the court proceedings, so as to take it as falling under any of the three heads of Criminal Contempt defined under Section 2(c) of the Contempt of Courts Act, 1971.

Having considered the pleadings and materials on record and the submissions made at the Bar, we hold that there is no material to proceed against the 1st respondent under the provisions of the Contempt of Courts Act, 1971 and accordingly this Contempt Case (Crl.) stands closed.

Sd/-

ANIL K.NARENDRAN, JUDGE

Sd/-

MURALEE KRISHNA S., JUDGE

sks

APPENDIX OF CONT.CAS.(CRL.) 6/2023

PETITIONER ANNEXURES

Annexure A	**COPY OF LETTER DATED 23/11/2023 OF THE FROM THE DISTRICT JUDGE, KOTTAYAM**
Annexure B	**COPY OF LETTER DATED 23/11/2023 OF THE CHIEF JUDICIAL MAGISTRATE, KOTTAYAM ALONG WITH LIST OF ADVOCATES FORWARDED FROM THE CHIEF JUDICIAL MAGISTRATE AND CORRECTED LIST DATED 25/11/2023**
Annexure C	**COPY OF PROCEEDINGS DATED 23.11.2023 IN C.C.NO. 432/2019 ON THE FILES OF THE COURT OF THE CHIEF JUDICIAL MAGISTRATE, KOTTAYAM.**
Annexure D	**COPY OF RESOLUTION DATED 22/11/2023 PASSED BY THE BAR ASSOCIATION, KOTTAYAM AND ITS ENGLISH TRANSLATION.**
Annexure E	**PENDRIVE/ CD CONTAINING VIDEOS OF THE INCIDENT THAT OCCURED ON 23.11.2023, FORWARDED BY THE CHIEF JUDICIAL MAGISTRATE, KOTTAYAM.**
Annexure F	**COMPLAINT FILED BY THE SHERISTEDAR BEFORE THE SHO, KOTTAYAM EAST POLICE STATION**
Annexure G	**FIR NO. 2094 OF 2023 DATED 08/11/2023 OF KOTTAYAM EAST POLICE STATION**
Annexure H	**B DIARY OF MC 541/ 2023 ON THE FILES OF CHIEF JUDICIAL MAGISTRATE COURT, KOTTAYAM**
Annexure I	**AFFIDAVIT OF CP1, DULY VERIFIED BY ADVOCATE NAWAB**